

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Docket No: Q68279

Hiroyuki TOMOIKE

Appln. No.: 10/058,805

Group Art Unit: 2144

Confirmation No.: 4726

Examiner: Thanh T. NGUYEN

Filed: January 30, 2002

For: MOBILE COMMUNICATION SYSTEM AND DATA TRANSFERRING METHOD
FOR USE WITH MOBILE COMMUNICATION SYSTEM

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated April 30, 2008. Entry of this Reply Brief is respectfully requested.

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STATUS OF CLAIMS

Claims 1-7 are all of the pending claims in the present Application.

Claims 1-7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Martin, Jr. et al.(U.S. Patent 6,610,105) in view of Chern et al. (U.S. Patent No. 6,381,465).

Claims 1-7 are the claims beingAppealed.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

There is only one issue for appeal. The single issue is whether claims 1-7 are improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin, Jr. et al. (U.S. Patent 6,610,105) in view of Chern et al. (U.S. Patent No. 6,381,465).

ARGUMENT

Appellant notes that pages 3-15 of the Examiner's Answer to the Appellant's Brief simply reproduce the arguments presented by the Examiner in the Final Office Action. The Appellant therefore is not presenting any additional arguments in response, other than reiterating the arguments made in the Appeal brief filed on February 14, 2008. Appellant addresses herein the additional arguments presented by the Examiner on pages 15-16. The reply to the Examiner's Answer can be found below.

With regard to independent claim 1, Appellant asserted that neither Martin or Chern, alone or in combination, teach, or even suggest, at least "a portable information terminal unit; [and] **a plurality of mobile stations** capable of participating simultaneously in communication with said portable information terminal unit."

The Examiner disagreed and in Response argues that Martin "teaches a plurality of mobile stations." (See Examiner's Answer, page 15). As support for this conclusion, the Examiner looks to the "plurality of mobile devices 106 such as devices 106.1, 106.2" of Martin. (See Examiner's Answer, page 15).

The Examiner is incorrect on two grounds. First, the disclosure of Martin relied on by the Examiner is incorrect, and in fact, inconsistent with the Examiner's position with respect to other elements in the claim. Second, the Examiner misunderstood the Appellant's argument. That is, Appellant not only argued that Martin fails to teach a plurality of mobile stations, but also argued that Chern fails to teach this same limitation.

Addressing the deficiencies in the Examiner's position in order, Appellants note that the disclosure of Martin relied on by the Examiner is incorrect. More specifically, the Examiner

relies on “mobile devices,” as shown, for example, in FIG. 1A of Martin as allegedly corresponding to the claimed “plurality of mobile stations capable of participating simultaneously in communication with said portable information terminal unit.” (See Examiner’s Answer, page 15).

However, Appellants respectfully note that the Examiner relies on the same disclosure (mobile station 106) as corresponding to both the “portable information terminal unit” and the “mobile stations.” of claim 1. (See Examiner’s Answer, page 3). This is incorrect. Claim 1 clearly recites a communication relationship between these two devices.

Specifically, claim 1 recites a “portable information terminal unit. The Examiner asserts that this element is met by “mobile device 106 of FIG. 1A.” (See Examiner’s Answer, page 3). Next, the claim requires “a plurality of mobile stations capable of participating simultaneously in communication with said portable information terminal unit.” As support for the claimed “plurality of mobile stations,” the Examiner again point to the “mobile device 106.” (See Examiner’s Answer, page 3). Such an interpretation is improper, as two distinct limitations in the body of the claim should be read as differing in scope.

For at least this reason, Appellant respectfully requests for the rejection to be withdrawn.

Second, Appellant respectfully asserts that the Examiner misunderstood the arguments provided in the Appeal brief. Specifically, Appellant argued that “neither Martin or Chern, alone or in combination, teach, or even suggest, at least “a portable information terminal unit; [and] a plurality of mobile stations capable of participating simultaneously in communication with said

portable information terminal unit.” In other words, Appellant argued that both Martin and Chern are missing the “mobile station” limitation.

With respect to Martin, the deficiencies of this reference have been addressed above. With respect to Chern, the Examiner has not addressed the argument presented in the Appeal Brief. However, in the rejection set forth in the Examiner’s Response, where the Examiner simply copies the Final Office Action, the Examiner asserts that Chern discloses “a plurality of mobile stations [see Chern, Col. 5, lines 40-58], (network is typically comprised of a plurality of base station …).” (See Examiner’s Answer, page 4). As is clear from the Examiner’s position, the Examiner considers the “base station” of Chern to correspond to the claimed “mobile stations.” As set forth in the Appeal Brief, this is simply incorrect. Specifically, Appellant has explained why the “base station” of Chern does not correspond to the claimed “mobile station.” A such, these arguments are incorporated by reference herein.

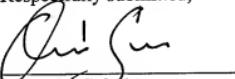
In the Appeal Brief of February 14, 2008, Appellant also argued that Martin and Chern also fail teach or even suggest, at least a “portable information terminal unit adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile stations uploads or downloads only a portion of the plurality of pieces of data.”

In response, the Examiner simply copies the “Response to Arguments” that was previously presented in the Final Office Action. Appellant respectfully asserts that this argument has been addressed in the Appeal Brief of February 14, 2008. As such, the Argument presented in the Appeal Brief is incorporated by reference herein.

CONCLUSION

For the reasons set forth above, as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,



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